



**U.S. Department of
Transportation**
Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

NEW

May 8, 1998

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of **NORTHWEST AIRLINES, INC. and KLM ROYAL DUTCH AIRLINES**, filed **4/17/98** in Docket **OST-98-3759**:

XX Allocation to Northwest of U.S.-France third-country code-share opportunities to:

Conduct scheduled combination air services between the United States and France via the Netherlands on a blind-sector basis between the Netherlands and France under a code-share arrangement with KLM. Northwest states that this service will facilitate convenient on-line service between five cities in France and 14 U.S. gateways via Amsterdam, with continuing on-line connecting service to numerous additional points in the United States.

XX Statement of Authorization for KLM under 14 CFR Part 212 of the Department's regulations to:

Permit KLM to display the Northwest "NW" designator code on KLM flights between the Netherlands and France for the carriage of Northwest's U.S.-France traffic.

The applicants state that initially they will operate code-share services between Amsterdam and Lyon, Mulhouse, Nice, Paris (CDG), and Toulouse and that they will begin code-share operations as soon as they have secured the requisite government authorizations.

Continental Airlines and United Air Lines filed answers to Northwest's application. Continental did not oppose Northwest's application, but states that approval of all of the code-share applications, including the Continental/Air France application which is also pending, should be made at the same time and that since all of these applications are unopposed, they should be granted immediately. United noted that Northwest had applied for the one of the two available third-country code-share designations and because there are two opportunities available and only two applications, there was no need for carrier selection and the designations should be granted immediately to both United and Northwest. United also stated that the Air France code-share applications pending with Continental Airlines and Delta Air Lines should be granted contemporaneously with the U.S. carrier applications so that Air France and its partners do not get a head start over U.S. carrier third-country partnerships in operating U.S.-France code-share services.

Applicant rep: **Megan Rae Poldy (202) 842-3193** DOT Analyst: **Linda Senese (202) 366-2367**

DISPOSITION

XX *Granted, subject to conditions (See below)*

The above action was effective when taken: **May 8, 1998**, and will remain in effect, subject to the conditions described below.

XX *Under assigned authority (14 CFR 385) by:*

*Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the effectiveness of
this action.)*

(See Reverse Side)

XX Authority granted is consistent with the Memorandum of Consultations signed April 8, 1998, between the United States and France,¹ and aviation agreement between the United States and the Netherlands.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity and U.S.-France exemption authority (Northwest)
XX Foreign Air Carrier Permit (KLM)

Conditions: The authority granted here was made subject to the following conditions:

- (a) Northwest and/or KLM must notify the Department (Office of International Aviation, Room 6412) by letter, no later than 30 days before they begin any new code-share service under the code-share services authorized here. Such notice shall identify the market(s) to be served, which carrier will be operating the aircraft in the code-share market added, and the date on which they service will begin;
- (b) The authorities shall remain in effect as long as (i) the carriers' underlying authority to serve the markets at issue remains in effect and (ii) the underlying alliance agreement remains in effect and approved by the Department.
- (c) Northwest and/or KLM must notify the Department immediately if the alliance agreement under which these code-share services are operated is no longer in effect, or if the carriers decide to cease operating all or a portion of the code-share services under the alliance;
- (d) All operations conducted under this authorization must comply with the terms, conditions, and limitations of Order 93-1-11 (Northwest/KLM antitrust immunity order) and any subsequent order(s) of the Department regarding this alliance;
- (e) All operations must comply with 14 CFR 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted and are expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservations systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept all obligations established in its contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operator shall not permit the code of its U.S. code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition; and
- (f) The code-share operations must not involve services in the New York-Paris market.²

Remarks: In response to the concerns raised by Continental and United, we have contemporaneously granted the United/Lufthansa third-country code-share application (Docket OST-98-3732), the Continental/Air France code-share application (Undocketed), and the Delta/Air France code-share application (Undocketed). We also contemporaneously granted related broad U.S.-France exemption authority to Continental, Northwest, Delta, United, and Air France in conjunction with their code-share operations.

*An electronic version of this document is available on the World Wide Web at:
<http://dms.dot.gov/general/orders/aviation.html>.*

¹ On April 8, 1998, the United States and France signed a Memorandum of Consultations (MOC) and initialed the text of a framework for a new Air Transport Agreement (Agreement). The MOC also provided that each Party would permit operations consistent with the Agreement on the basis of comity and reciprocity, pending finalization of the Agreement.

² U.S. carrier services in the New York-Paris market are limited through 2003, and Northwest is not one of the U.S. carriers now designated to serve New York.